

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

B. P. J., et al.,

Plaintiffs,

v.

CIVIL ACTION NO. 2:21-cv-00316

WEST VIRGINIA STATE BOARD OF EDUCATION, et al.,

Defendants.

ORDER

Pending before the court is Defendants' unopposed motion to amend the briefing schedule [ECF No. 36] for Plaintiffs' Motion for a Preliminary Injunction. Defendants' request that the deadline for filing a response to the Preliminary Injunction be extended from June 16, 2021, to July 2, 2021. This request was filed the day before the response was due. Such late requests for additional time will not be tolerated.

Defendants first contend that they require additional time to permit the West Virginia Attorney General to intervene. While Federal Rule of Civil Procedure 5.1(c) does prevent the court from entering a final decision on the merits finding a state statute unconstitutional prior to 60 days after the state attorney general has been served with notice, this rule is inapplicable to a ruling on a preliminary injunction as it is not a final decision on the merits. The West Virginia Attorney General may seek

to intervene as he chooses but this has no sway over the court's schedule regarding a preliminary injunction.

Defendants' next assert that they require more time to respond to the motion because of the "complexity of the issues presented." This does not suffice. The 14 days permitted to respond to motions by the Local Rules apply to both complex and simple matters. Defendants also indicate that they may need to request exceptions from the page limit on memoranda in the local rules. These requests will be considered as they are filed, but more time will not be granted in mere anticipation of them. Moreover, requests for additional time, which are at times appropriate and necessary, must be made prior to the eleventh hour. Defendants' Motion is **DENIED**.

Nevertheless, recognizing the cooperation between parties and the agreement that has been made regarding the July conditioning practices, I will permit some additional time to respond to the Motion. **Defendants' Response to the Motion for a Preliminary Injunction will be due June 23, 2021. Plaintiffs' Reply will be due June 30, 2021.**

Since the parties may stipulate to an extension of the deadline to Answer Plaintiffs' Complaint per Local Rule of Civil Procedure 12.1, I do not address their request to extend the Answer deadline here.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: June 15, 2021